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In re Application :
Minteer, al. :
Application No. 10/598,951 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: July 13, 2007 :
Dkt. No.: SLU 03-022 (4556.8) :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705," filed January 12, 2010. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(b).

Applicants submit that the correct patent term adjustment to be indicated on the patent is 694 days, not zero days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the application is entitled to an adjustment of 725 days pursuant to 37 CFR 1.702(a)(1) in connection with the mailing of the non-final Office action on March 13, 2008.

The application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED**.

Applicants advised that the international filing date for the instant PCT application was January 19, 2005. Applicants argue that the first Office action was mailed March 13, 2008, 725 days after the 14 month due date for the mailing of a first office action on the merits.

In accordance with 37 CFR 1.702(a)(1), the term of a patent shall be adjusted for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application. See, also, MPEP 1893.03(b).

The instant application fulfilled the requirements of 35 U.S.C. 371 on July 13, 2007. As the first Office action on the merits was mailed within 14 months of the date of fulfillment on March 20, 2008 the application is not entitled to adjustment under 37 CFR 1.702(a)(1).

In view thereof, no correction of the patent term adjustment set forth in the initial determination of patent term adjustment will be made.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

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